

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248, the Utilities Board (Board) gives notice that on November 25, 2008, the Board issued an order in Docket No. RMU-08-5, In re: Revisions to Rules Governing Certificates of Franchise Authority for Cable and Video Service [199 IAC 44], “Order Adopting Amendments.” The order adopted amendments which were published under Notice of Intended Action in IAB Vol. XXXI, No. 7 (9/24/2008), p. 815, as **ARC 7168B**, without revision.

The amendments revise the Board’s rules at 199 IAC 44 regarding certificates of franchise authority for cable and video service providers to reflect recent legislative changes in 2008 Iowa Acts, Senate File 2248, and to add other provisions regarding notice from certificated service providers of service area revision, transfer of certificates, or termination of certificates.

The order adopting amendments contains a more thorough discussion of the amendments. The order is available on the Board’s Web site at www.state.ia.us/iub.

These amendments will become effective on January 21, 2009.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248.

The following amendments are adopted.

ITEM 1. Amend rules **199—44.2(17A,476,82GA,SF554)** and **199—44.3(17A,476,82GA,SF554)**, parenthetical implementation, by striking “82GA,SF554” and inserting “477A,82GA,SF2248” in lieu thereof.

ITEM 2. Amend rule **199—44.2(17A,476,477A,82GA,SF2248)**, definition of “Municipality,” as follows:

“Municipality” means a ~~county or a~~ city.

ITEM 3. Amend subrule 44.3(1) as follows:

44.3(1) Existing franchise agreements. A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board. An application for a certificate of franchise authority from a person subject to an existing municipal franchise agreement may be filed within 60 days prior to the expiration of the agreement and, if granted, shall take effect upon the expiration date of the agreement.

ITEM 4. Amend subrules 44.3(5) to 44.3(7) as follows:

44.3(5) Modification of service area. At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board ~~upon~~ of the effective date of the expansion or other change in service area using a form developed by and available from the board. The board will acknowledge receipt of a notice of service area modification by letter.

44.3(6) Transfer of certificate of franchise authority. The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor’s principal place of business and the names and titles of the successor’s principal executive officers with direct authority over and responsibility for the successor’s cable or video operations. A notice of transfer shall be effective on the date which is the later of (1) 14 business days after the date of filing of the notice of transfer with the board or (2) the effective date of transfer as

designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate. The board will acknowledge receipt of a notice of transfer by letter.

44.3(7) *Termination of certificate of franchise authority.* The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the board and to each affected municipality using a form developed by and available from the board. The board will acknowledge receipt of a notice of termination by letter.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.